

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
)  
Kellie Caron, ) AWA-D Docket No. **19-J-0090**  
)  
Petitioner. )  
)  
AND )  
)  
In re: )  
)  
Kellie Caron, an individual ) AWA Docket No. **20-J-0042**  
d/b/a The Sloth Center, Zoological )  
Wildlife Conservation Center, and )  
Sloth Captive Husbandry Center, )  
)  
Respondent. )

**Decision and Order on the Written Record (Ruling Granting  
APHIS's Motion for Summary Judgment as to Kellie Caron)**

Appearances:

*David L. Durkin, Esq., with Olsson Frank Weeda Terman Matz PC, 2000 Pennsylvania Avenue NW, Suite 3000, Washington, D.C. 20006, for the Petitioner/Respondent Kellie Caron, doing business as The Sloth Center, Zoological Wildlife Conservation Center, and Sloth Captive Husbandry Center; and*

*John V. Rodriguez, Esq., with the Office of the General Counsel, United States Department of Agriculture, 1400 Independence Ave SW, Washington D.C. 20250, for the Respondent/Complainant, the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture ("APHIS").*

**Decision Summary**

1. The Respondent APHIS's April 26, 2019 DENIAL of the Petitioner Kellie Caron's application for a USDA Animal Welfare Act license (Gov't Ex 47 enclosed) is AFFIRMED. APHIS's DENIAL was based on the Animal Welfare Act, as amended, particularly 7 U.S.C. § 2133 and 7 U.S.C. § 2151; and on the Animal Welfare Act Regulations, particularly 9

C.F.R. § 2.1(e) and 9 C.F.R. § 2.11(a)(6). As detailed in Gov't Ex 47 enclosed, APHIS's DENIAL includes the July 20, 2018 finding, which has been fully appealed and finalized, that Kellie Caron violated State of Washington Administrative Code (WAC) 16-54-030(3)(h), WAC 16-54-180, WAC 16-54-030, and Revised Code of Washington (RCW) 16.36.050, requiring a valid permit issued by Washington State Department of Agriculture (WSDA) to enter or reenter the State of Washington with exotic animals. APHIS's Motion for Summary Judgment as to Kellie Caron in Docket No. **19-J-0090** (AWA-D), is GRANTED.

2. The Respondent Kellie Caron willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) and the Regulations issued thereunder (9 C.F.R. § 1.1 et seq.), particularly 9 C.F.R. § 2.1, on multiple occasions subsequent to April 10, 2018, including November 3, 2018, when she exhibited regulated animals without a valid Animal Welfare Act license. The written record shows that APHIS proved by a preponderance of the evidence that the Respondent Kellie Caron exhibited regulated animals without a valid license, in violation of 9 C.F.R. § 2.1, and no genuine issues of material fact exist that merit taking oral testimony. Considering the written record as a whole, the appropriate remedies are REVOCATION of Kellie Caron's already canceled Animal Welfare Act license number 92-B-0256, permanent disqualification of Kellie Caron from obtaining an Animal Welfare Act license, and issuance of a cease and desist order. The Complainant APHIS's Motion for Summary Judgment as to Kellie Caron, doing business as The Sloth Center, Zoological Wildlife Conservation Center, and Sloth Captive Husbandry Center, in Docket No. **20-J-0042** (AWA), is GRANTED.

### **Procedural History**

3. AWA-D Docket No. **19-J-0090** was initiated by Kellie Caron's Petition timely filed with the USDA Hearing Clerk on May 20, 2019, by and through counsel, David L. Durkin, Esq., regarding "Request for Hearing on Denial of Exhibitor License Under the Animal Welfare Act; Customer No. 503366, Kellie Caron". The Petition requests, at 1, "a hearing for showing why the application for license should not be denied" pursuant to 9 C.F.R. § 2.11(b).

4. The Respondent in Docket No. **19-J-0090** (AWA-D), the Administrator of the USDA Animal and Plant Health Inspection Service (APHIS), filed his Response to Petitioner's Request for Hearing on June 17, 2019 ("Respondent's Response to Petition"). On October 25, 2019, counsel for Respondent at the time, Mr. Scott Weiner, provided by email a copy of the letter ("Caron APHIS Denial Letter") to Ms. Kellie Caron from the Assistant Deputy Administrator, Animal Care, which provided in part, at 2, "we believe that you are unfit for licensure and that issuance of an exhibitor's license to you would be contrary to the purposes of the AWA. Accordingly, pursuant to sections 2.1(e) and 2.11(a)(6) of the Regulations, we deny your application." Gov't Ex 47 enclosed.

5. AWA Docket No. **20-J-0042**, regarding Respondent Kellie Caron, doing business as The Sloth Center, Zoological Wildlife Conservation Center, and Sloth Captive Husbandry Center, was initiated via Complaint filed on February 12, 2020, by the Complainant APHIS. The Complaint alleged that Kellie Caron "willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (AWA or Act), and the Regulations issued thereunder (9 C.F.R. § 1.1 et seq.)" when she "On multiple occasions subsequent to April 10, 2018, including November 3, 2018 . . . exhibited animals without a valid license, in violation of 9

C.F.R. § 2.1.” Complaint at 1 and at 2, para. 6.

6. Respondent Caron timely filed her Answer in Docket No. **20-J-0042** on March 9, 2020, denying allegations in paragraphs 3, 4, 5, and the factual allegations of paragraph 6 of the Complaint.

7. A Hearing in both AWA-D Docket No. 19-J-0090 and AWA Docket No. 20-J-0042 was scheduled to take place in October 2021.<sup>1</sup>

8. The Respondent/Complainant APHIS filed “Government’s Motion for Summary Judgment” (“Motion for Summary Judgment”) on June 21, 2021, in the combined: AWA-D Docket No. 19-J-0090, regarding Petitioner Kellie Caron; and AWA-D Docket No. 19-J-0098, regarding Petitioner Greg Golliet; and AWA Docket No. 20-J-0042, regarding Respondent Kellie Caron, an individual, doing business as The Sloth Center, Zoological Wildlife Conservation Center, and Sloth Captive Husbandry Center.

The Motion for Summary Judgment includes a Memorandum of Points and Authorities with several exhibits attached and is based on section 1.143(b) of the Rules of Practice (7 C.F.R. § 1.143(b)) and all pleadings, documents, and points and authorities filed as a part of the Motion for Summary Judgment.

9. Petitioner/Respondent Caron, by and through counsel and combined with AWA-D Docket No. 19-J-0090, regarding Petitioner Kellie Caron; AWA-D Docket No. 19-J-0098, regarding Petitioner Greg Golliet; and AWA Docket No. 20-J-0042, regarding Respondent

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<sup>1</sup> The Hearing also included AWA-D Docket No. 19-J-0098, regarding Petitioner Greg Golliet, which was resolved by Decision and Order on the Written Record on August 30, 2021. On the same day, the Hearing was canceled as to only Petitioner Greg Golliet.

Kellie Caron, an individual, doing business as The Sloth Center, Zoological Wildlife Conservation Center, and Sloth Captive Husbandry Center, filed “Opposition to Motion for Summary Judgment” (“Opposition”) on July 12, 2021.

10. On July 30, 2021, Respondent APHIS filed Government’s Reply to Respondents’ [sic] Opposition to Motion for Summary Judgment (“Government’s Reply”), which might have referred to the Opposition more accurately as “Non-Government Parties’ Opposition”.

### **Authority**

11. The Animal Welfare Act (AWA) was promulgated to ensure the humane care and treatment of animals intended for use in research facilities, exhibition, or as pets. 7 U.S.C. § 2131. Congress provided for enforcement of the AWA by the Secretary of Agriculture. 7 U.S.C. §§ 2131-59. Regulations promulgated under the AWA pertinent here are in the Code of Federal Regulations, Part 9, sections 1.1 through 3.142.

### **Summary of the Record**

12. The following is a summary of the record, including pleadings and documents filed, relevant to the instant proceeding:

- a. Caron Petition (Request for Hearing)
- b. Respondent APHIS’s Response to Caron Petition
- c. APHIS Denial Letter to Kellie Caron (Gov’t Ex 47 enclosed)
- d. Government’s Motion for Summary Judgment, including, as relevant to Docket No. 19-J-0090 (AWA-D) and Docket No. 20-J-0042 (AWA) Caron:
  - i. Government’s Exhibit 1 (Respondent Caron’s license expiration letter)
  - ii. Government’s Exhibit 2 ([www.chasing-tail.com/programs](http://www.chasing-tail.com/programs) website)

captured December 4, 2018 and February 26, 2019.)

- iii. Government's Exhibits 3-33 (Instagram Posts)
- iv. Government's Exhibit 34 (TripAdvisor documents obtained by Investigator Orham)
- v. Government's Exhibit 35 (Yelp documents obtained by Investigator Orham)
- vi. Government's Exhibit 36 (TripAdvisor documents obtained by Investigator Orham)
- vii. Government Exhibit 37 (screenshots of Questions and Answers on Google Reviews website, obtained by Investigator Orham)
- viii. Government's Exhibit 38 (Julie Halter's Affidavit)
- ix. Government's Exhibit 39 (Petitioner/Respondent Caron's Application for License)
- x. Government's Exhibit 40 (ZWCC Sloth Center business record filed October 30, 2018)
- xi. Government's Exhibit 41 (Petitioner Golliet's Application for License)
- xii. Government's Exhibit 42 (ZWCC Sloth Center business records filed October 2, 2018)
- xiii. Government's Exhibit 43 (Sloth Captive Husbandry Center's business records)
- xiv. Government's Exhibit 44 (Court Order and Disposition of Impounded Animals Case No. PS18-0002)

- xv. Government's Exhibit 45 (Mary S. Orham Declaration); and
- xvi. Government's Exhibit 46 (Petitioner Golliet's denial letter)
- xvii. Government's Exhibit 47 (APHIS Denial Letter to Kellie Caron)
- e. Opposition to Motion for Summary Judgment, including
  - i. P/RPX 1 (Petitioner's Request for a Hearing; series of emails
- f. "Government's Reply to Respondents' [sic] Opposition to Motion for Summary Judgment"

### **Discussion**

13. The USDA Judicial Officer has consistently ruled that "hearings are futile and summary judgment is appropriate where there is no factual dispute of substance."<sup>2</sup> Regarding a "factual dispute of substance," also called a "genuine issue of material fact," an issue is "genuine" if "sufficient evidence exists on each side so that a rational trier of fact could resolve the issue either way," and an issue of fact is "material" if "under the substantive law it is essential to the proper disposition of the claim. [Citation Omitted.] The mere existence of some factual dispute will not defeat an otherwise properly supported motion for summary judgment because the factual dispute must be material."<sup>3</sup>

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<sup>2</sup> *Agri-Sales, Inc.*, 73 Agric. Dec. 327, 328-30 (U.S.D.A. 2014), *aff'd* by the Judicial Officer and adopted as the final order in the proceeding, 73 Agric. Dec. 612 (U.S.D.A. 2014) (citing *Animals of Montana, Inc.*, 68 Agric. Dec. 92, 104 (U.S.D.A. 2009); *Bauck*, 868 Agric. Dec. 853, 858-59 (U.S.D.A. 2009); *Veg-Mix, Inc. v. U.S. Dep't of Agric.*, 832 F.2d 601, 607 (D.C. Cir. 1987).

<sup>3</sup> *Id.* (citing *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 670 (10th Cir. 1998); *Schwartz v. Brotherhood of Maintenance Way Employees*, 264 F.3d 1181, 1183 (10th Cir. 2001)).

***Docket 19-J-0090, Denial of Kellie Caron's AWA License Application Must be Affirmed***

14. As to Docket No. 19-J-0090, there is no genuine issue of material fact that would oral testimony. Petitioner Caron concedes the material fact that she has “been found in violation of provisions the State of Washington Administrative Code regarding the possession and transportation of exotic animals, and that all appeals in that court proceeding have been concluded.” *See* Petitioner’s Opposition at 14 (referring to paragraphs I, J, K, and M in the Counter-Statement of Undisputed Facts, *id.* at 9-10). Although Petitioner Caron contends that “that APHIS has not made a sufficient showing of undisputed facts on the allegation of Petitioner/Respondent engaging in regulated activities, i.e., exhibition, at a time when she did not hold a valid AWA exhibitor’s license,” *id.*, as explained further below, the Respondent APHIS has already proved by a preponderance of the evidence that Ms. Caron is not fit for an AWA license under 9 C.F.R. § 2.11(a)(6); that finding provides sufficient basis to affirm APHIS’s denial of Ms. Caron’s AWA license application.

15. The Secretary of Agriculture is authorized by the AWA to “issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe.” 7 U.S.C. § 2133. Accordingly, the Secretary of Agriculture has promulgated regulations prescribing the form and manner of AWA licensing procedure. *See* 9 C.F.R. §§ 2.1-12. The Regulations provided, in relevant part to this proceeding, the following as to denial of an AWA license application (effective at the time these proceedings were initiated):

Any person operating or intending to operate as a dealer, exhibitor, or operator of an auction sale, except persons who are exempted from the licensing requirements under paragraph (a)(3) of this section, must have a valid license.

9 C.F.R. § 2.1(a)(1).



The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license; or for its suspension or revocation by the Secretary, as provided in the Act.

9 C.F.R. § 2.1(e).

(a) A license will not be issued to any applicant who:

....

(6) Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, or has pled *nolo contendere* (no contest) or *has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.*

....

(c) No partnership, firm, corporation, or other legal entity in which a person whose license application has been denied has a substantial interest, financial or otherwise, will be licensed within 1 year of the license denial.

(d) No license will be issued under circumstances that the Administrator determines would circumvent any order suspending, revoking, terminating, or denying a license under the Act.

9 C.F.R. § 2.11(a) (emphasis added).

(As referenced throughout the pleadings and documents filed, and as referenced in this Decision, 9 C.F.R. 2.11(a)(6) at the time the APHIS Denial Letter was issued, read as quoted above. That version of section 2.11(a) was effective through November 8, 2020 and an amended version was effective as of November 9, 2020).

16. Petitioner Caron appealed her AWA license denial stating, Petition at 2-3:

Without prejudice as to evidence to be produced at the requested hearing, Ms. Caron specifically denies that she has violated 7 U.S.C. §§ 2133 and 2151, and the regulations and standards promulgated under that authority. With respect to the allegation contained in the application denial that Ms. Caron has been found in violation of a State law pertaining to the transportation or ownership of animals, specifically State of Washington Administrative Code (WAC) 16-54-030(3)(h), WAC 16-54-180, WAC 16-54-030, and Revised Code of Washington (RCW) 16.36.050, that matter is currently on appeal to the State of Washington, Thurston County Superior Court, Case No.: 18-2-

04448-34, styled *Caron, et al., v. City of Lacey*, and cannot, as a matter of law, form the basis for the license denial.

17. On June 3, 2020, The Supreme Court of Washington denied Respondents' appeal, Government's Exhibit 49, making final the finding that on or about July 20, 2018, Ms. Caron and Petitioner Golliet violated State of Washington Administrative Code (WAC) 16-54-030(3)(h), WAC 16-54-180, WAC 16-54-030, and Revised Code of Washington (RCW) 16.36.050, which requires a valid permit issued by Washington State Department of Agriculture (WSDA) to enter or reenter the State of Washington with exotic animals. *See* Government's Exhibits 44 and 48.

18. I agree with Respondent APHIS that any applicant who has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals can be denied an AWA license.

9 C.F.R. § 2.11(a)(6). So even if Petitioner/Respondent Caron had raised issues as to allegations that she continued to exhibit animals despite the cancellation of her previous AWA license in violation of 9 C.F.R. §§ 2.1(a)(1), 2.2(c), there is no genuine issue regarding whether the APHIS AWA license DENIAL should be affirmed.

***Docket 20-J-0042, Kellie Caron Violated the AWA and Regulations by Exhibiting Regulated Animals Without a Valid License***

19. The 20-J-0042 Complaint, at 2, para. 6, alleges that on multiple occasions subsequent to April 10, 2018, including November 3, 2018, the Respondent Kellie Caron exhibited animals without a valid license, in violation of 9 C.F.R. § 2.1. The Complainant APHIS's Motion for Summary Judgment, at 27-28, requests a civil penalty of \$10,000, stating that such penalty is "reasonable considering Petitioner/Respondent Caron repeatedly

exhibited animals without an AWA license.” Further, Complainant requests an order revoking Respondent Caron’s previous AWA license number 92-B-0256 and instituting a cease and desist order. *Id.* at 29.

20. The record shows that the Complainant APHIS has proved, by a preponderance of the evidence, that the Respondent Caron exhibited animals without a valid license, in violation of 7 U.S.C. § 2134 and 9 C.F.R. § 2.1, on multiple occasions:

- g. Kellie Caron, at the address of 74320 Larson Rd., Rainier, Oregon 97048, doing business as The Sloth Center (“TSC”), Zoological Wildlife Conservation Center (“ZWCC”), and Sloth Captive Husbandry Center (“SCHC”) was operating under AWA license 92-B-0256, which was canceled after March 26, 2018. *See* Government Exhibits 42-43 and 1. *See also* Answer in 20-J-0042 at 1, para. 1; Respondent Caron’s Opposition at 6, para. B.
- h. Respondent Kellie Caron was an exhibitor as that term is defined in the AWA and Regulations. 7 U.S.C. § 2132(h); Government Exhibits 1, 39. (In her Opposition, Respondent Caron does not specifically deny that she is an exhibitor as that term is defined in the AWA).
- i. Despite Ms. Caron’s AWA license cancellation, Ms. Caron continued to advertise to the public the services of viewing sloths at 74320 Larson Rd. in Rainier, OR 97048, and between April 15, 2018 and January 27, 2019, exhibiting sloths, without holding a valid AWA license at the same address. Government Exhibit 2-38.

21. Respondent Caron raises several opposing defenses and issues. First, Respondent Caron disputes that she received notice from APHIS on or around March 26, 2018 that her

exhibitor's license, number 92-B-0256, had expired and was no longer valid. This dispute is not material. As a previous license holder, Respondent Caron has acknowledged receipt of, and compliance to, the AWA and Regulations promulgated thereunder. 9 C.F.R. § 2.2. The Regulations make clear the valid duration of an AWA license and renewal requirements (9 C.F.R. §§ 2.1-.5). Further, as Complainant notes, Motion for Summary Judgment at 25, by applying for an AWA license on or about February 17, 2019, Respondent Caron tacitly acknowledged that she did not have a valid AWA license.<sup>4</sup> See Government's Exhibit 39.

Second, Respondent Caron disputes that

- j. "on or about November 3, 2018, at approximately 4:00 pm, Ms. Julie Halter and 3 other persons to include Mr. Marcelino Arias, paid \$400.00 to The Sloth Center, to feed and learn about the sloths located at 74320 Larson Rd. in Rainier, OR 97048";
- k. the materiality of "the facts that on or about December 4, 2018, Investigator Mary Suzanne Orham ("Investigator Orham"), Investigative and Enforcement Services ("IES"), APHIS, USDA, conducted an investigation into the Respondents and discovered the Respondents' business webpage [www.chasingtail.com/programs18](http://www.chasingtail.com/programs18) which included dates, times, and prices to interact with sloths at [www.-13e.bookeo.com](http://www.-13e.bookeo.com)";
- l. "on various dates during the course of her investigation, Investigator Orham also discovered Instagram posts after searching 'The Sloth Center' and 'ZWCC'

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<sup>4</sup> See *Pinkston*, 2014 WL 801792, at \*3 (U.S.D.A. 2014); *Elrod*, 71 Agric. Dec. 441, 446 (U.S.D.A. 2012).

constitutes reliable and probative evidence as to when various Instagram posters visited The Sloth Center and ZWCC”; and

- m. the materiality of “the fact that on or about February 26, 2019, Investigator Orham conducted a follow-up investigation into the Respondents and discovered the Respondents’ business webpage [www.chasing-tail.com/programs](http://www.chasing-tail.com/programs) also included a sloth sleepover ad linked to [www.-13e.bookeo.com](http://www.-13e.bookeo.com).

Respondent’s Opposition at 9-10, paras. I-K, M. Respondent Caron states that she is prepared to provide testimony at hearing regarding these disputes of fact. *Id.* However, Respondent Caron, aside from the statements of disputes, did not provide any other documentation, affidavit, or even explanation of the type of testimony, or by whom, that would support her denials of fact/disputes of the government’s proposed facts at hearing. As Complainant points out, mere denials or statements of dispute are not sufficient to raise a genuine issue of material fact.<sup>5</sup> *See Donald B. Mills, Inc.*, 57 Agric. Dec. 11, 14 (U.S.D.A. 1998) (“The non-moving party cannot simply rest on its allegation without any significant probative evidence tending to support the complaint.”) (citing *Anderson v. Liberty Lobby*, 477 U.S. 242, 249 (1986)).

22. Under the AWA, the term “willful” means “action knowingly taken by one subject to the statutory provision in disregard of the action’s legality. . . . Actions taken in reckless

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<sup>5</sup> *See* Complainant’s Reply at 6-7 (citing *Hansen v. United States*, 7 F.3d 137, 138 (9th Cir. 1993) (citing *Hughes v. United States*, 953 F.2d 531, 541 (9<sup>th</sup> Cir.1992)); *Farrakhan v. Gregoire*, 590 F.3d 989 1001-02 (9th Cir. 2010) (citing Fed.R.Civ.P. 56(e)(“If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party.”)); *MacDraw, Inc. v. CIT Group Equipment Financing, Inc.*, 73 F.3d 1253, 1259 (2d Cir. 1996).

disregard of statutory provisions may also be ‘willful.’ ”<sup>6</sup> The Court in *Hodgins* determined the “proper rule”:<sup>7</sup>

Unless it is shown with respect to a specific violation either (a) that the violation was the product of knowing disregard of the action’s legality or (b) that the alleged violator was given a written warning and a chance to demonstrate or achieve compliance, the violation cannot justify a license suspension or similar penalty.

The Judicial Officer has long held that a “willful act under the Administrative Procedure Act (“APA”) (5 U.S.C. § 558(c)) is an act in which the violator intentionally does an act which is prohibited, irrespective of evil motive or reliance on erroneous advice, or acts with careless disregard of statutory requirements.”<sup>8</sup> It is also important to note that ‘willfulness’ determinations are not necessary for issuance of civil penalties or cease and desist orders. Only one finding of a willful violation is needed under 7 U.S.C. § 2149(a) to provide

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<sup>6</sup> *Hodgins v. U.S. Dep’t of Agric.*, 238 F.3d 421, 2000 WL 1785733, \*9 (6th Cir. 2000) (table) (internal quotations omitted) (quoting *Volpe Vito, Inc. v. USDA*, No. 97-3603, 1999 WL 16562, at \*2 (6th Cir. Jan. 7, 1999); citing *United States v. Illinois Cent. Ry.*, 303 U.S. 239, 242-43 (1938) (one who ‘intentionally disregards the statute or is plainly indifferent to its requirements’ acts willfully) (quotation omitted); *Goodman v. Benson*, 286 F.2d 896, 900 (7th Cir.1961) (one who ‘acts with careless disregard of statutory requirements’ acts willfully); Jacob A. Stein et al., *Administrative Law* § 41.06[3] (2000) (stating the generally accepted test for willful behavior under the Administrative Procedure Act is whether an action “was committed intentionally” or “was done in disregard of lawful requirements” and also noting that “gross neglect of a known duty will also constitute willfulness”)).

<sup>7</sup> *Id.* at \*10.

<sup>8</sup> *Terranova Enterprises, Inc., A Texas Corp., d/b/a Animal Encounters, Inc.*, 71 Agric. Dec. 876, 880 (U.S.D.A. July 19, 2012) (citing *Bauck*, 68 Agric. Dec. 853, 860-61 (2009), appeal dismissed, No. 10-1138 (8th Cir. Feb. 24, 2010); *D&H Pet Farms, Inc.*, 68 Agric. Dec. 798, 812-13 (2009); *Bond*, 65 Agric. Dec. 92, 107 (2006), *aff’d per curiam*, 275 F. App’x 547 (8th Cir. 2008); *Stephens*, 58 Agric. Dec. 149, 180 (1999); *Arab Stock Yard, Inc.*, 37 Agric. Dec. 293, 306 (1978), *aff’d mem.*, 582 F.2d 39 (5th Cir. 1978)).

authority for the suspension or revocation of a license.<sup>9</sup>

23. Respondent Caron's violation of 9 C.F.R. § 2.1 was willful: Respondent Caron's violation was in knowing disregard of the action's legality. As discussed, *supra* at 11-12, para. 22, As a previous license holder, Respondent Caron has acknowledged receipt of, and compliance to, the AWA and Regulations. 9 C.F.R. § 2.2. The Regulations make clear the valid duration of an AWA license and renewal requirements (9 C.F.R. §§ 2.1-.5). Further, Respondent Caron, by applying for an AWA license on or about February 17, 2019, tacitly acknowledged that she did not have a valid AWA license. See Government's Exhibit 39.

***A Cease and Desist Order and License Revocation is Appropriate and Sufficient to Deter Future Violations***

24. Complainant APHIS requests and recommends a cease and desist order, revocation of the canceled AWA license 92-B-0256, and a civil penalty of \$10,000. The Animal Welfare Act requires me to consider: "the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary." 7 U.S.C. § 2149.

25. Complainant APHIS contends, Motion for Summary Judgment at 28-29, that Respondent Caron's business is moderately large based on her application for exhibitor's license which represented ownership of eighty-six (86) animals.<sup>10</sup> Second, Complainant

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<sup>9</sup> See *Big Bear Farm, Inc*, 55 Agric. Dec. 107, 139 (U.S.D.A. 1996); *Horton*, 73 Agric. Dec. 77, 85 (U.S.D.A. 2014).

<sup>10</sup> Citing Government Exhibits 39, 41; *Perry*, 2013 WL 8213618, 8 (2013) ("The evidence establishes that, during the period 2000 through 2005, Mr. Perry and PWR held as few as 56 animals and as many as 83 animals [exhibit citation omitted]. Based upon the number of

APHIS contends, *id.*, that the gravity of violations here is great and includes repeated failures to comply with the AWA and the Regulations, which “strike at the heart of the regulatory program.”<sup>11</sup> Third, Complainant APHIS contends, *id.*, that Respondent Caron “has shown bad faith by repeatedly exhibiting sloths illegally without an AWA license despite knowledge of the requirements for an AWA license from her previous license and the notification letter dated March 26, 2018.”<sup>12</sup> Fourth, Complainant APHIS contends, *id.*, that Respondent Caron “violated the Act and the Regulations at least 39 times from April 15, 2018 through January 27, 2019,” after her license was inactive, showing a history of violations.<sup>13</sup>

26. Respondent Caron contends, Opposition at 15, that

Regardless of the rulings of the presiding Administrative Law Judge on the amenability of the two license denial petitions and the complaint seeking revocation and a cease-and-desist order to summary adjudication, APHIS seeks an additional

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animals held by Mr. Perry and PWR, I find they operate a moderately large business.”) (citing *Huchital*, 58 Agric. Dec. 763, 816-17 (1999) (finding the respondent, who held approximately 80 rabbits, operated a large business); *Browning*, 52 Agric. Dec. 129, 151 (1993) (finding that respondent, who held 75-80 animals, operated a moderately large business)), *aff’d per curiam*, 15 F.3d 1097 (11th Cir. 1994).

<sup>11</sup> Citing *Bradshaw*, 50 Agric. Dec. 499, 509 (1991) (“As stated in *In re Otto Berosini*, 54 Agric. Dec. 886, 907 (1995): The licensing requirements of the Act are at the center of this remedial legislation. Respondent’s violation, continuing to operate without a license, with full knowledge of the licensing requirements, strikes at the heart of the regulatory program.”); *see also Ennes*, 45 Agric. Dec. 540, 546 (1986); *Mitchell*, 2010 WL 5295429, 8 (Dec. 21, 2010) (citing *In re Otto Berosini*, 54 Agric. Dec. 886, 907 (1995)).

<sup>12</sup> Citing *Horton v. United States Department of Agriculture*, 73 Agric. Dec. 77, 89, (U.S.D.A. 2014) (“bad faith and a history of previous violations can also be found where a petitioner receives notice of his violations yet continues to operate without a license”).

<sup>13</sup> Citing *Greenly*, 72 Agric. Dec. 603, 625 (U.S.D.A. 2013) (“An ongoing pattern of violations establishes a history of previous violations for the purposes of 7 U.S.C. § 2149(b)”).



sanction that should not be subject to summary adjudication because of statutorily required findings that must be made.

Specifically, Respondent Caron contends that a hearing regarding civil penalties is necessary because “in addressing these factors [from 7 U.S.C. § 2149(b)], especially the question of good faith, that due process and simple fairness require the opportunity to be heard and to have her credibility evaluated.” *Id.* Respondent Caron further argues that “Summary adjudication is an important streamlining process but it cannot take precedence over due process.” *Id.* Respondent Caron’s contention is without merit. A separate hearing to determine civil penalty is not required here.<sup>14</sup> As Complainant APHIS points out, Reply at 12-13, Respondent Caron “had ample opportunity to address this reasoning, explain mitigating circumstances, or argue why lower sanctions are appropriate in her reply” but did not provide any depositions, documentation, or even explanation of testimony and by whom that would counter the analysis of the factors to be considered as presented by Complainant. Upon careful consideration of the written record, I find no genuine issue of material fact that would require me to hear oral testimony to determine the appropriate remedies for Kellie Caron’s Animal Welfare Act violations.

28. When an AWA license applicant is denied a license, that applicant is restricted from applying again for at least one year. *See* 9 C.F.R. § 2.11(c). When revocation and permanent disqualification from having an AWA license are ordered, the person(s) subject to that order are NOT eligible to obtain an AWA license thereafter. 9 C.F.R. §§ 2.9, 2.11(d). AWA license revocation and permanent disqualification are permanent remedies.

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<sup>14</sup> *Hager*, 2018 WL 4204795 (U.S.D.A. Aug. 17, 2018). The Administrative Law Judge assessed \$25,600 in penalties for AWA violations in a case handled on brief.

29. Respondent Caron's violations of 9 C.F.R. § 2.1, by repeatedly exhibiting regulated animals without a valid AWA License, merits issuance of a cease and desist order; revocation of her canceled AWA license number 92-B-0256; and an order disqualifying / banning her from holding any AWA license in the future. 9 C.F.R. §§ 2.10(b), 2.1(e). *See Tesar*, 56 Agric. Dec. 158 (U.S.D.A. 1996) (revoking respondent's license and stating that respondent's exhibition of regulated rabbits without a license "is a violation that strikes at the very heart of the Act."); *see also Drogosch*, 63 Agric. Dec. 623, 648-49 (U.S.D.A. 2004) (a canceled license may be revoked).

30. Respondent Caron does not provide specific evidence or argument regarding the size of business, gravity of violations, or history of violations. Respondent Caron does persuade that her testimony should be heard to determine whether she acted in good faith.

Respondent's Opposition at 15. Based on the written record, I cannot conclude that Respondent Caron acted in good faith. The written record shows that Respondent Caron, more likely than not, attempted to circumvent the licensing requirements through the application of a license by her business associate Greg Golliet. *See* August 30, 2021 Decision and Order on the Written Record (Ruling Granting Respondent APHIS's Motion for Summary Judgment as to Greg Golliet), AWA Docket No. 19-J-0098. Further, Respondent Caron knew or should have known that she was continuing to violate the Animal Welfare Act and Regulations by exhibiting regulated animals after the validity of her license had lapsed. *See supra* para. 21. (Respondent Caron, in her Opposition, did not specifically dispute the appropriateness of a cease and desist order or license revocation as penalty for the alleged violations).

31. Because revocation is permanent and disqualifies the affected person from ever holding an AWA license in his/her own name, or in any partnership, firm, corporation, or other legal entity the person has substantial interest in, financial or otherwise, revocation of Respondent Caron's license suffices not only as a deterrent for her and others but also to reflect the gravity of repeated failures to comply with APHIS requirements. I conclude that, here, considering the written record as a whole, no civil penalty need be imposed in addition.

32. The written record is thoroughly developed with voluminous exhibits, and I conclude that the entry of summary judgment in APHIS's favor is appropriate; no oral testimony is required to decide this case. Consequently, I will prepare a separate Hearing Cancellation.

#### **Findings Of Fact**

1) Petitioner/Respondent Kellie Caron ("Caron"), d/b/a The Sloth Center ("TSC"), Zoological Wildlife Conservation Center ("ZWCC"), and Sloth Captive Husbandry Center ("SCHC"), is an individual whose business address was 74320 Larson Rd., Rainer, OR 97048. Answer to the Complaint in AWA Docket No. 20-J-0042, Paragraph 1, filed March 9, 2020.

2) Prior to March 26, 2018, Caron possessed AWA License 92-B-0256. Government Exhibit 1.

3) On or about March 26, 2018, AWA License 92-B-0256 was canceled for failure to renew. Government's Exhibit 1; Petitioner/Respondent Caron's Opposition at 6, para. C. [Caron indicates she did not receive notice timely about her AWA license March 26, 2018 cancellation.]

4) On or about July 6, 2018, a "Reinstatement Amended" of the entity SCHC was

electronically filed (“e-filed”) with the Oregon Secretary of State, Corporate Division, documenting, in part:

- a. Registry Number: 130466394;
- b. Primary Place of Business: 5305 River Rd. N, Keizer, OR 97303; and
- c. Name of President and Secretary: Kellie Caron.

Government’s Exhibit 43; Petitioner/Respondent Caron’s Opposition at 6-7, para. D.

5) On or about July 20, 2018, Caron and Petitioner Greg Golliet (“Petitioner Golliet”) were found to have violated State of Washington Administrative Code (WAC) 16-54-030(3)(h), WAC 16-54-180, WAC 16-54-030, and Revised Code of Washington (RCW) 16.36.050, which requires a valid permit issued by Washington State Department of Agriculture (WSDA) to enter or reenter the State of Washington with exotic animals. The court held that Caron and Petitioner Golliet caused eleven (11) exotic animals to be brought into Washington State without valid WSDA entry permits and, as a result, affirmed the State’s impoundment of the animals. Government’s Exhibits 44, 48 at 13-15; Petitioner/Respondent Caron’s Opposition at 7, para. E(a).

6) On or about July 30, 2018, Petitioner Golliet applied for an AWA license. Government’s Exhibit 41; Petitioner/Respondent Caron’s Opposition at 7, para. F.

7) On or about October 2, 2018, an “Application for Registration” of the entity ZWCC Sloth Center was e-filed with the Oregon Secretary of State, Corporate Division, documenting, in part:

- a. Registry Number: 148202898;
- b. Principal Place of Business: 74320 Larson Rd., Rainier, OR 97048;
- c. Authorized Representative: Kellie Caron; and

d. Registrant/Owner: Kellie Caron.

Government's Ex. 42; Petitioner/Respondent Caron's Opposition at 7, para. G.

8) On or about October 30, 2018, filed with the Oregon Secretary of State, Corporate Division, was an "Assumed Business Name – Amendment" of the entity ZWCC Sloth Center documenting, in part:

- a. Registry Number: 1482028-98;
- b. Principal Place of Business: 74320 Larson Rd., Rainier, OR 97048;
- c. Authorized Representative: Greg Golliet; and
- d. Registrant/Owner: Greg Golliet.

Government's Ex. 40. Petitioner/Respondent Caron's Opposition at 8, para. H.

9) On or about November 3, 2018, at approximately 4:00 pm, Ms. Julie Halter and three (3) other persons to include Mr. Marcelino Arias, paid \$400.00 to The Sloth Center, to feed and learn about the sloths located at 74320 Larson Rd. in Rainier, OR 97048. Government Exhibit 38.

10) On or about December 4, 2018, Investigator Mary Suzanne Orham ("Investigator Orham"), Investigative and Enforcement Services ("IES"), APHIS, USDA, conducted an investigation into Caron and Petitioner Golliet and discovered their business webpage [www.chasing-tail.com/programs](http://www.chasing-tail.com/programs) which included dates, times, and prices to interact with sloths at [www.-13e.bookeo.com](http://www.-13e.bookeo.com) . Government's Exhibits 2 at 9-10; 45.

11) On various dates during the course of her investigation, Investigator Orham also discovered Instagram posts after searching "The Sloth Center" and "ZWCC":

- a. On or about April 15, 2018, Instagram user emma\_bumblebee posted, in part, with photographs of a sloth: "Dreams do come true! I got to have a sleepover with sloths!"

I stayed up all night feeding them cucumber. I'm still in shock." Government Exhibit 3;

- b. On or about April 21, 2018, Instagram user vitalrd posted, in part, with a photograph of a sloth: "Slothing around oregon with my loves this Saturday #sloths"

Government Exhibit 4;

- c. On or about May 20, 2018, Instagram user bri\_vana posted, in part, with a photograph of a sloth: "What a completely amazing experience! Hanging out, feeding, and sleeping over with sloths! Unbelievable! #slothsleepover" Government Exhibit 5;

- d. On or about June 10, 2018, Instagram user taggy\_lee posted, in part, with a photograph of a sloth: "#slothphotobomb #sloth #sloths #slothsofinstagram"

Government Exhibit 6;

- e. On or about July 13, 2018, Instagram user dbastedo posted a photograph of a sloth and a woman. Government Exhibit 7;

- f. On or about July 28, 2018, Instagram user charity\_billings posted, in part, with a photograph of a sloth: "This is what dreams are made of" Government Exhibit 8;

- g. On or about August 19, 2018, Instagram user caseyhoovs posted, in part, with a photograph of a sloth: "My life is complete. I got to feed, hold, and spend the night with sloths! [] #dreamscometrue #bondingmoment #campingwithsloths"

Government Exhibit 9;

- h. On or about September 1, 2018, Instagram user wernwong posted, in part, with a photograph of a sloth, "This lil guy omg" Government Exhibit 10;

- i. On or about September 8, 2018, Instagram user stephanierae1980 posted, in part,

with a photograph of a sloth: “Just trying to live my best life [] bucket list item[]”

Government Exhibit 11;

- j. On or about September 29, 2018, Instagram user misstina28 posted, in part, with a photograph of a sloth: “Squad goals. Sorry friends, I don’t need you anymore #sloth #slothsofinstagram” Government Exhibit 12;
- k. On or about October 6, 2018, Instagram user garrettinobrown posted, in part, with a photograph of a sloth: “Bucket list experience complete. Got to hangout, feed, and pet some super dope sloths. It was amazing! #sloth #wildlife #hangingout #slothlife #fashion #realdadshit” Government Exhibit 13;
- l. On or about October 15, 2018, Instagram user paigedagostino posted, in part, with a photograph of a sloth: “Excitement level from 1-10? 27, Easily.” Government Exhibit 14;
- m. On or about October 28, 2018, Instagram user kiwiherman00 posted, in part, with a photograph of a sloth: “Sloth babies all lined up and ready for their sleepover last night. My guests were so excited! #slothsleepover #slothin #lineupforthis #cucumbers” Government Exhibit 15;
- n. On or about October 29, 2018, Instagram user v\_awesome\_g posted, in part, with photographs of a sloth with multiple persons: “Possibly the coolest day ever!! I got to hang with some sloths as a work outing and it was the best. I’m so happy!!” Government Exhibit 16;
- o. On or about October 30, 2018, Instagram user victoria\_\_patterson posted, in part, with photographs of a sloth: “Today I got to play with sloths and feed them cucumbers” Government Exhibit 17;

- p. On or about October 30, 2018, Instagram user rmpatters posted, in part, with a photograph of a sloth: “So, we found a sloth sanctuary.” Government Exhibit 18;
- q. On or about November 4, 2018, Instagram user juliehalter\_sir posted, in part, with a photograph of a sloth: “We took a daytrip to the #slothsanctuaryoregon today in Rainer, Oregon. Who would have known that this exists and hour from Portland?!.” Government Exhibit 19;
- r. On or about November 4, 2018, Instagram user remintr0n posted, in part, with a photograph of a sloth: “Absolutely wonderful day feeding the sloths at #ZWCC learned so much about #sloths and they are so adorable. And they need to be protected so future generations no what it’s like to see these beautiful creatures. #wildlifeconservation” Government Exhibit 20;
- s. 1On or about November 10, 2018, Instagram user dondeestadez commented, in part, with a photograph of a sloth: “@eldweeze sounds like you need to go to rainier!” Government Exhibit 21;
- t. On or about November 18, 2018, Instagram user kevin\_udell posted, in part, with a photograph of a sloth: “This girl right here got to see her favorite things on her birthday: Sloths! Crazy little dudes. Happy Birthday babe!!” Government Exhibit 22;
- u. On or about November 23, 2018, Instagram user starbie66 posted, in part, with a photograph of a sloth: “BEST BIRTHDAY EVER![] []” Government Exhibit 23;
- v. On or about December 1, 2018, Instagram user lgbyesallofit posted, in part, with a photograph of a sloth: “not lgbt related, but I had an amazing experience today. These beautiful babe’s homes were destroyed. And the species will become endangered and extinct if we don’t do something about it soon, visit the link in our



- bio to help! #savethesloths []” Government Exhibit 24;
- w. On or about December 3, 2018, Instagram user looksbylexington posted, in part, with a photograph of a sloth: “SLOTHY SLEEPOVER [] A HUGE thank you to @Tatcha & @Theraemarinee for sending us on the trip of my dreams! I’m so grateful for this experience because sloths are my favorite animal! I couldn’t think of a better way to celebrate my birthday [] Until next time, Oregon! [] #TheSlothCenter #MtRainer” Government Exhibit 25;
- x. On or about December 16, 2018, Instagram user savstark posted, in part, with a photograph of a sloth: “I got to hold and feed sloths for my 18th birthday. it doesn’t get better than this #livingmybestlife #brothernaturewho[[]]” Government Exhibit 26;
- y. On or about January 13, 2019, Instagram user kristenmarlomusic posted, in part, with a photograph of a sloth: “This is what happiness looks like. Taking a break from music to hang out (literally in his case) with these amazing creatures! #livingmybestlife #sloth #slowmotion #reibeanie #friends #dayoff #hangingout #ilovesloths #daytrip” Government Exhibit 27;
- z. On or about January 15, 2019, Instagram user hchristine26 posted, in part, with a photograph of a sloth: “The sloths were so cute and nice oh my god [] oh yeah and happy late birthday to my sister” Government Exhibit 28;
- aa. On or about January 21, 2019, Instagram user shmaileyd posted, in part, with a photograph of a sloth: “I still can’t believe I got meet these sweet babies today. I’m even more convinced that I was a sloth in a past life. Thanks to @al\_restivo for giving into my strange obsessions[[]]” Government Exhibit 29;
- bb. On or about January 26, 2019, Instagram user tashcoug posted, in part, with a

- photograph of a sloth: “Just hangin #whereistheslothemoji” Government Exhibit 30;
- cc. On or about January 26, 2019, Instagram user mamakelseyque posted, in part, with a photograph of a sloth: “Dreams do come true [ ] [ ] [ ]” Government Exhibit 31;
- dd. On or about January 26, 2019, Instagram user feddichinn posted, in part, with a photograph of a sloth: “One of the best experiences of my life! I strongly recommend this experience to everyone + what you pay goes to taking care of other animals [ ] [ ] [ ]” Government Exhibit 32; and
- ee. On or about January 27, 2019, Instagram user smashly88 posted, in part, with a video of a sloth: “Hung out with a bunch of sloths today, which I realized are basically me in animal form #slothsanctuary” Government Exhibit 33.
- 12) On or about February 17, 2019, Caron dated an Animal Welfare Act license application, which APHIS received on March 22, 2019 (Gov’t Ex 47). Government’s Exhibit 39; Petitioner/Respondent’s Opposition at 10, para. L.
- 13) On or about February 26, 2019, Investigator Orham conducted a follow-up investigation into Caron and Petitioner Golliet and discovered their business webpage [www.chasing-tail.com/programs](http://www.chasing-tail.com/programs) also included a sloth sleepover ad linked to [www.-13e.bookeo.com](http://www.-13e.bookeo.com) . Government’s Exhibit 2 at 6-8. Petitioner/Respondent Caron’s Opposition at 10, para. M.
- 14) On or about March 4, 2019, Petitioner Golliet’s AWA license application was denied based on 9 C.F.R. § 2.11(a)(5), “[i]s or would be operating in violation or circumvention of any Federal, State, or local laws...” The Agency reasoned, “[i]t is our understanding that you intend to exhibit animals owned by Kellie Caron who does not have a USDA license. If you were to receive an AWA license under these circumstances, it would enable Ms. Caron

to circumvent the licensing requirements, which is prohibited section by 2.11(a)(5).”

Government’s Exhibit 46; Petitioner’s Opposition at 10, para. N.

15) On or about March 27, 2019, Investigator Orham, IES, APHIS, USDA, conducted additional investigations, Government Exhibit 36, and discovered approximately five (5) reviews of The Sloth Center at Zoological Wildlife Conservation Center on TripAdvisor located at 74320 Larson Rd., Rainer, OR 97048, which took place after March 26, 2018:

- a. On or about January 13, 2019, TripAdvisor user carlawilder posted, in part: “While it was cool to see them, you won’t get what you paid for.” Government Exhibits 36 at 1, 34;
- b. On or about August 3, 2018, TripAdvisor user GracedGirls posted, in part: “Tessa did a phenomenal job showing us how to feed and pet the sloths, then gave us a thorough education on the sloths and everything about them.” Government Exhibits 36 at 1;
- c. On or about July 9, 2018, TripAdvsiior user AjandMaria posted, in part: “My visit was very relaxed, I felt very welcome and Tess was a wealth of knowledge. The sloths were wonderful and enjoyed eating from my hand...” *Id.* at 2;
- d. On or about May 23, 2018, TripAdvisor user docsny posted, in part: “We had exactly 1 hour to be near them. Our guide was very instructive. We Got to pet them. Take innumerable pictures. And, all in all, get a great opportunity to hangout with these phenomenal creatures.” *Id.*; and
- e. On or about April 24, 2018, TripAdvisor user 104denisep posted, in part: “To go here and live amongst the sweetest creatures for a whole night was well worth my time, the money, and the 5 ½ flight it took me to get there and back.” *Id.* at 3.

16) On or about March 28, 2019, Investigator Orham, IES, APHIS, USDA, conducted additional investigations, Government Exhibit 35, and discovered approximately three (3) reviews of The Sloth Center at Zoological Wildlife Conservation Center on Yelp located at 74320 Larson Rd., Rainer, OR 97048 which took place after March 26, 2018:

- a. On or about February 3, 2019, Yelp user Zach W. posted, in part, with photographs of a sloth: “We did the sloth sleepover and it was mind blowing.” *Id.* at 1-2;
- b. On or about August 31, 2018, Yelp user Joyce G posted, in part: “When I visited (which I now greatly regret), their standoffishness and brusque manner were my first clue that something was amiss. I figured it was worth being treated rudely to spend time with sloths and help fund conservation efforts.” *Id.* at 2; and
- c. On or about April 6, 2018, Yelp user Haley B. posted, in part, with photographs of a sloth: “Probably one of the coolest experiences I’ve ever had! The name says it all, all sloths, there are a few monkeys though that are cute as shit wondering around too! So the 3 of us booked the private sloth experience, super happy we did so our visit didn’t have to be with a bunch of others and we had full attention of our host. I think we paid like 300e I could be a tiny bit off.” *Id.* at 2-3.

17) On April 26, 2019, Petitioner/Respondent Caron’s AWA license application was DENIED, Government Exhibit 47, based **in part** on 9 C.F.R. § 2.1(e):

The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license; or for its suspension or revocation by the Secretary, as provided in the Act.

The Agency reasoned:

We have reason to believe that, despite cancellation of your prior AWA license, you have continued to conduct regulated activity without holding a

valid license, in violation of 9 C.F.R. §2.1(e). Specifically, we have reason to believe that you have hosted sloth sleepovers and other wildlife encounters with the public without a valid exhibiter's [sic] license. Pursuant to 9 C.F.R. § 2.1(e), engaging in exhibition without a valid license shall constitute grounds for denial of a license.

18) APHIS's April 26, 2019 DENIAL of Petitioner/Respondent Caron's AWA license application (Government Exhibit 47) was based **in part** on 9 C.F.R. § 2.11(a)(6), which provides that a license will not be issued to any applicant who:

Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies . . . *or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals*, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act. (Emphasis added)

The Agency reasoned:

On July 20, 2018, you were found to have violated State of Washington Administrative Code (WAC) 16-54-030(3)(h), WAC 16-54-180, WAC 16-54-030 and Revised Code of Washington (RCW) 16.36.050, which requires a valid permit issued by Washington State Department of Agriculture (WSDA) to enter or reenter the State of Washington with exotic animals. The court held that you caused 11 exotic animals to be brought into Washington State without valid WSDA entry permits and, as a result, affirmed the State's impoundment of the animals. Pursuant to 9 C.F.R. § 2.11(a)(6), an AWA license shall not be issued to an applicant who has been found to have violated any State laws or regulations pertaining to the transportation or ownership of animals.

### **Conclusions**

- 1) The Secretary of Agriculture has jurisdiction over the parties and the subject matter.
- 2) APHIS's DENIAL by letter dated April 26, 2019 of the Petitioner Kellie Caron's application for a USDA Animal Welfare Act license (Gov't Ex 47 enclosed), is  
  
AFFIRMED. APHIS's DENIAL was based on the Animal Welfare Act, as amended, particularly 7 U.S.C. § 2133 and 7 U.S.C. § 2151; and on the Animal Welfare Act

Regulations, particularly 9 C.F.R. § 2.1(e) and 9 C.F.R. § 2.11(a)(6). APHIS's DENIAL is AFFIRMED in accordance with 7 U.S.C. §§ 2133, 2151; 9 C.F.R. § 2.1(e) and 9 C.F.R. § 2.11(a)(6); and the remedial nature of the Animal Welfare Act.

3) The Respondent Kellie Caron willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) and the Regulations issued thereunder (9 C.F.R. § 1.1 et seq.), particularly 9 C.F.R. § 2.1, on multiple occasions subsequent to April 10, 2018, including November 3, 2018, when she exhibited regulated animals without a valid Animal Welfare Act license. 9 C.F.R. § 2.1.

4) Congress, through the Animal Welfare Act, requires the Secretary of Agriculture to monitor the exhibition and handling of specified animals, including animals exhibited by the Respondent Kellie Caron. When an individual thwarts the Animal Welfare Act licensing requirements, APHIS, on behalf of the Secretary, cannot achieve its mission or meet its duty.

5) Although APHIS requested and recommended a \$10,000 civil penalty, I conclude that, here, the remedies of revocation and permanent disqualification suffice (a) to reflect the gravity of Kellie Caron's willful and repeated failures to comply with the Animal Welfare Act; (b) to accomplish the remedial purposes of the Animal Welfare Act, and (c) to be a deterrent to others.

6) No genuine issues of material fact exist that merit taking oral testimony. The written record shows that entry of summary judgment in favor of APHIS as to Kellie Caron in Docket No. **19-J-0090** (AWA-D) AND in Docket No. **20-J-0042** (AWA), is appropriate. APHIS's Motion for Summary Judgment as to Petitioner/Respondent Kellie Caron is GRANTED.

### **Order**


- 1) Kellie Caron, and her agents, employees, successors, and assigns, directly or indirectly, through any corporate or other device, are ordered to cease and desist from violations of the Animal Welfare Act and the Regulations.
- 2) Kellie Caron's Animal Welfare Act license number 92-B-0256 (already canceled), is REVOKED.
- 3) Kellie Caron is permanently disqualified (banned) from applying for, being considered for, and being granted an Animal Welfare Act license.
- 4) APHIS's April 26, 2019 denial of Kellie Caron's application for an Animal Welfare Act license is AFFIRMED.

### **Finality**

This Decision and Order becomes final and effective thirty-five (35) days after service of this Decision and Order upon Petitioner/Respondent Kellie Caron, unless appealed to the Judicial Officer by a party to the proceeding by filing with the Hearing Clerk within thirty (30) days under section 1.145 of the Rules of Practice (7 C.F.R. § 1.145). See Appendix A.

Copies of this "Decision and Order on the Written Record (Ruling GRANTING Respondent APHIS's Motion for Summary Judgment as to Kellie Caron)" shall be sent by the Hearing Clerk to each of the parties.

Issued this 15th day of September 2021, in Washington, D.C.

  
Jill S. Clifton  
Jill S. Clifton  
Administrative Law Judge

Digitally signed by  
JILL CLIFTON  
Date: 2021.09.15  
15:47:02 -04'00'

**Enclosed:**

Gov't Ex 47

Appendix A

Hearing Clerk's Office  
U.S. Department of Agriculture  
Stop 9203 South Building Room 1031-S  
1400 Independence Ave SW  
Washington DC 20250-9203

1-202-720-4443

FAX 1-844-325-6940

[SM.OHA.HearingClerks@usda.gov](mailto:SM.OHA.HearingClerks@usda.gov)





Animal and Plant  
Health Inspection  
Service

April 26, 2019

Animal Care  
4700 River Road  
Riverdale, MD 20737

Kellie Caron  
P.O. Box 952  
Rainier, OR 97048

Certified Mail Return Receipt Requested  
#70182290000187096196

Customer #: 503366

Dear Ms. Caron:

I write regarding your application, dated February 17, 2019 and received on March 22, 2019, for an exhibitor's license under the Animal Welfare Act (AWA or Act). We are denying this application based on sections 2133 and 2151 of the AWA (7 U.S.C. §§ 2133, 2151), section 2.1(e) of the AWA regulations (9 C.F.R. § 2.1(e)), and section 2.11(a)(6) of the AWA regulations (9 C.F.R. § 2.11(a)(6)).

Section 2.1(a)(1) of the regulations require that:

"Any person operating or intending to operate as a dealer, exhibitor, or operator of an auction sale, except persons who are exempted from the licensing requirements under paragraph (a)(3) of this section, must have a valid license." 9 C.F.R. § 2.1(a)(1).

Section 2.1(e) of the regulations provides that:

"The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license; or for its suspension or revocation by the Secretary, as provided in the Act." 9 C.F.R. § 2.1(e).

Section 2.11(a)(6) of the regulations provides that a license will not be issued to any applicant who:

"Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies . . . *or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals*, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act." 9 C.F.R. § 2.11(a)(6) (emphasis added).

**Denial pursuant to 9 C.F.R. § 2.1(e)**

We have reason to believe that, despite cancellation of your prior AWA license<sup>1</sup>, you have continued to conduct regulated activity without holding a valid license, in violation

<sup>1</sup> AWA Certificate 92-B-0256 cancelled for failure to renew, March 26, 2018.

of 9 C.F.R. §2.1(e). Specifically, we have reason to believe that you have hosted sloth sleepovers and other wildlife encounters with the public without a valid exhibitor's license. Pursuant to 9 C.F.R. § 2.1(e), engaging in exhibition without a valid license shall constitute grounds for denial of a license.

#### **Denial pursuant to 9 C.F.R. § 2.11(a)(6)**

On July 20, 2018, you were found to have violated State of Washington Administrative Code (WAC) 16-54-030(3)(h), WAC 16-54-180, WAC 16-54-030 and Revised Code of Washington (RCW) 16.36.050, which requires a valid permit issued by Washington State Department of Agriculture (WSDA) to enter or reenter the State of Washington with exotic animals.<sup>2</sup> The court held that you caused 11 exotic animals to be brought into Washington State without valid WSDA entry permits and, as a result, affirmed the State's impoundment of the animals. Pursuant to 9 C.F.R. § 2.11(a)(6), an AWA license shall not be issued to an applicant who has been found to have violated any State laws or regulations pertaining to the transportation or ownership of animals.

#### **Conclusion**

In sum, we believe that you are unfit for licensure and that issuance of an exhibitor's license to you would be contrary to the purposes of the AWA. Accordingly, pursuant to sections 2.1(e) and 2.11(a)(6) of the Regulations, we deny your application. If you disagree with this determination, you may request a hearing in accordance with section 2.11(b) of the Regulations and applicable rules of practice for the purpose of showing why the application for license should not be denied. The rules of practice are available at <http://www.dm.usda.gov/oal/decisions/rules.htm>. The request for hearing must be in writing, and should be filed within 20 days of the date of receipt of this letter with the Office of the Hearing Clerk at the following address:

Office of the Hearing Clerk  
Room 1031 South Building  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9200  
(202) 720-4443; (202) 720-9776 fax  
Hours: 8:30 a.m. - 4:30 p.m.

Should you request a hearing, the license denial will remain in effect at least until a final decision has been issued. If you elect not to request a hearing, the denial will remain in effect for one year from the date of this letter, at which time you may reapply for an AWA license.

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<sup>2</sup> Kellie Caron and Greg Golliet vs. City of Lacey, Case No. PS18-0002, *Court Order On Disposition Of Impounded Animals*, July 20, 2018. Note that this proceeding is distinct from City of Olympia vs. Kellie Evonne Caron, Case No. 2018397, a criminal proceeding (Complaint filed July 2018) which charged Ms. Caron with four counts of Failure to Provide Humane Care to Animals. After a hearing, Ms. Caron was found not guilty on all four counts (2/6/2019).

Sincerely,

A black rectangular redaction box covering the signature of Gerald Rushin. A thin horizontal line extends from the right side of the box.

Gerald Rushin  
Assistant Deputy Administrator  
Animal Care

## APPENDIX A

### 7 C.F.R.:

#### TITLE 7—AGRICULTURE

#### SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

#### PART 1—ADMINISTRATIVE REGULATIONS

....

#### SUBPART H—RULES OF PRACTICE GOVERNING FORMAL

#### ADJUDICATORY PROCEEDINGS INSTITUTED BY THE SECRETARY UNDER

#### VARIOUS STATUTES

...

#### § 1.145 Appeal to Judicial Officer.

(a) *Filing of petition.* Within 30 days after receiving service of the Judge's decision, if the decision is a written decision, or within 30 days after issuance of the Judge's decision, if the decision is an oral decision, a party who disagrees with the decision, any part of the decision, or any ruling by the Judge or who alleges any deprivation of rights, may appeal the decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. As provided in § 1.141(h)(2), objections regarding evidence or a limitation regarding examination or cross-examination or other ruling made before the Judge may be relied upon in an appeal. Each issue set forth in the appeal petition and the arguments regarding each issue shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations to the record, statutes, regulations, or authorities being relied upon in support of each argument. A brief may be filed in support of the appeal simultaneously with the appeal petition.

(b) *Response to appeal petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

(c) *Transmittal of record.* Whenever an appeal of a Judge's decision is filed and a response thereto has been filed or time for filing a response has expired, the Hearing Clerk shall transmit to the Judicial Officer the record of the proceeding. Such record shall include: the pleadings; motions and requests filed and rulings thereon; the transcript or recording of the testimony taken at the hearing, together with the exhibits filed in connection therewith; any documents or papers filed in connection with a pre-hearing conference; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the proceeding; the Judge's decision; such exceptions, statements of objections and briefs in support thereof as may have been filed in the proceeding; and the appeal petition, and such briefs in support thereof and responses thereto as may have been filed in the proceeding.

(d) *Oral argument.* A party bringing an appeal may request, within the prescribed time

for filing such appeal, an opportunity for oral argument before the Judicial Officer. Within the time allowed for filing a response, appellee may file a request in writing for opportunity for such an oral argument. Failure to make such request in writing, within the prescribed time period, shall be deemed a waiver of oral argument. The Judicial Officer may grant, refuse, or limit any request for oral argument. Oral argument shall not be transcribed unless so ordered in advance by the Judicial Officer for good cause shown upon request of a party or upon the Judicial Officer's own motion.

(e) *Scope of argument.* Argument to be heard on appeal, whether oral or on brief, shall be limited to the issues raised in the appeal or in the response to the appeal, except that if the Judicial Officer determines that additional issues should be argued, the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all issues to be argued.

(f) *Notice of argument; postponement.* The Hearing Clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the argument must be made by motion filed a reasonable amount of time in advance of the date fixed for argument.

(g) *Order of argument.* The appellant is entitled to open and conclude the argument.

(h) *Submission on briefs.* By agreement of the parties, an appeal may be submitted for decision on the briefs, but the Judicial Officer may direct that the appeal be argued orally.

(i) *Decision of the [J]udicial [O]fficer on appeal.* As soon as practicable after the receipt of the record from the Hearing Clerk, or, in case oral argument was had, as soon as practicable thereafter, the Judicial Officer, upon the basis of and after due consideration of the record and any matter of which official notice is taken, shall rule on the appeal. If the Judicial Officer decides that no change or modification of the Judge's decision is warranted, the Judicial Officer may adopt the Judge's decision as the final order in the proceeding, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum. A final order issued by the Judicial Officer shall be filed with the Hearing Clerk. Such order may be regarded by the respondent as final for purposes of judicial review without filing a petition for rehearing, reargument, or reconsideration of the decision of the Judicial Officer.

[42 FR 743, Jan. 4, 1977, as amended at 60 FR 8456, Feb. 14, 1995; 68 FR 6341, Feb. 7, 2003]

7 C.F.R. § 1.145